

Ser. No. 10/734,696

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"should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed." *Id.* at 700-82, col. 2.

In the present application, however, at least the claim 13 rejection was not necessitated by amendment. Claim 13 had been previously rejected as unpatentable over Neal et al. in view of Carl, Jr. et al. The amendment made did not further distinguish Neal et al. and/or Carl Jr. but rather distinguished a prior reference applied against other claims. Accordingly, the need to add JP '339 to the claim 13 rejection was not necessitated by amendment but was merely necessitated by insufficiency of the prior examination and rejection.

Additionally, the rejections of claims 3 and 5 and of claim 4 also were not necessitated by amendment. Another secondary reference (Hass et al.) had previously been cited against these claims but, clearly lacked the elements of claims 3-6. That insufficiency required the new grounds.

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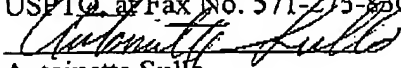
Respectfully submitted,

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Date: June 19, 2008

I hereby certify that this correspondence is being facsimile transmitted this June 19, 2008 to the USPTO at Fax No. 571-273-8300.


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